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In re Application of
Jones, Ben et al.
Application No.: 09/936,630
PCT No.: PCT/US00/40038
Int. Filing Date: 16 March 2000
Priority Date: 17 March 1999
Attorney Docket No.: IO-1009US
For: SENSOR

DECISION ON

PETITION UNDER

37 CFR 1.47(a)

This is a decision on applicants' "Petition In Support of Application Filed Under 37 C.F.R. 1.47(a) and Fees Under 37 C.F.R. §1.17(h)," filed in the United States Patent and Trademark Office (USPTO) on 04 June 2002.

BACKGROUND

On 16 March 2000, applicants filed international application PCT/US00/40038, which claimed a priority date of 17 March 1999. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 21 September 2000. A Demand for international preliminary examination, in which the United States was elected, was filed on 17 October 2000, within nineteen months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 17 September 2001.

On 12 September 2001, applicants filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee.

On 04 December 2001, USPTO mailed a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration of the inventors in compliance with 37 CFR 1.497(a)-(b) was required.

On 04 June 2002, applicants submitted the instant petition under 37 CFR 1.47, which was accompanied by, *inter alia*, a petition for a four-month extension of time; the fee for a four-month extension of time; a declaration executed by eight of eleven inventors; copies of certified mail receipts, envelopes and a letter.

DISCUSSION

A petition under 37 CFR 1.47 must be accompanied by: (1) the fee under 37 CFR 1.17(h), (2) proof of pertinent facts, namely that the inventor refuses to sign or cannot be reached after diligent effort, (3) a statement of the last known address of the inventor, and (4) an oath or declaration by the 37 CFR 1.47(a) applicant on behalf of himself or herself and the nonsigning applicant.

Items (1) and (3) have been met. Applicants have paid the petition fee and have listed the addresses of the nonsigning inventors in the petition.

Item (2) has not been met. It is not clear whether applicants are claiming that the nonsigning inventors have refused to sign or could not be located after a diligent effort. As to Mr. Broseghini, the package was delivered, but there is no evidence that it was delivered to Mr. Broseghini, as the receipt was unsigned. As to Mr. Devolk, applicants have located two addresses for him, but it is not clear what efforts applicants have made to locate an address where he can be reached, such as internet searches. As to Mr. Johnson, applicants have no proof of delivery. Applicants must detail what efforts were made to locate the inventors, such as internet searches, postal inquiries, etc. Such information should come from someone with first hand knowledge of such efforts.

Item (4) has not been met. The declaration is not complete. Applicants state that a copy of the declaration was sent to each of the inventors. However, the office received only one declaration with the signatures of eight of eleven inventors. Applicants may not piece together pages from different declarations to create a composite declaration. Applicants must supply the complete declarations as executed by the inventors.

Additionally, it is noted that the declaration as submitted would not comply with 37 CFR 1.63, as it fails to list the residence and postal address for the non-signing inventors.

CONCLUSION

For the above reasons, applicants' petition under 37 CFR 1.47(a) is **DISMISSED**, without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Failure to timely file the proper response will result in abandonment of this application. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(a)". No additional petition fee is required.

Any further correspondence with respect to this matter should be addressed to the Assistant Commissioner for Patents, Box PCT, Washington, D.C. 20231, with the contents of this letter marked to the attention of the Office of PCT Legal Administration.



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